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In re Application of :  
HALLBRINK et al. :  
Application No.: 10/517,079 : DECISION  
PCT No.: PCT/IB03/03163 :  
Int. Filing Date: 18 June 2003 :  
Priority Date: 18 June 2002 :  
Attorney's Docket No.: 20747/230 :  
For: CELL PENETRATING PEPTIDES :

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 07 September 2007, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 18 June 2003, applicants filed international application PCT/IB03/03163, which designated the United States and claimed a priority date of 18 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 December 2004 (18 December 2004 being a Saturday).

On 06 December 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 17 May 2005, the DO/EO/US mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required as were certain "Sequence Listing" requirements.

On 11 August 2005, applicants submitted a response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 17 May 2005.

On 30 June 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (From PCT/DO/EO/916) indicating, *inter alia*, that certain "Sequence Listing"

requirements still had not been met.

On 24 July 2006, applicants submitted a response to the NOTIFICATION OF DEFECTIVE RESPONSE mailed 30 June 2006.

On 01 September 2006, the DO/EO/US mailed a second NOTIFICATION OF DEFECTIVE RESPONSE indicating that certain "Sequence Listing" requirements still had not been met.

On 19 September 2006, the DO/EO/US mailed a third NOTIFICATION OF DEFECTIVE RESPONSE indicating that certain "Sequence Listing" requirements still had not been met.

On 03 October 2006, applicants submitted a response to the NOTIFICATION OF DEFECTIVE RESPONSE mailed 01 September 2006.

On 24 October 2006, the DO/EO/US mailed a fourth NOTIFICATION OF DEFECTIVE RESPONSE indicating that certain "Sequence Listing" requirements still had not been met.

On 22 November 2006, applicants submitted a response to the NOTIFICATION OF DEFECTIVE RESPONSE mailed 24 October 2006.

On 14 February 2007, the DO/EO/US mailed a fifth NOTIFICATION OF DEFECTIVE RESPONSE indicating that certain "Sequence Listing" requirements still had not been met.

On 14 March 2007, applicants submitted a response to the NOTIFICATION OF DEFECTIVE RESPONSE mailed 14 February 2007.

On 23 April 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond the NOTIFICATION OF MISSING REQUIREMENTS mailed 19 September 2006.

On 07 September 2007, applicants filed the instant petition.

### **DISCUSSION**

The third NOTIFICATION OF DEFECTIVE RESPONSE mailed 19 September 2006 was mailed in error. It was simply a duplicate of the third NOTIFICATION OF DEFECTIVE RESPONSE mailed 01 September 2006. The IFW file contains a notation to this effect. Thus, the third NOTIFICATION OF DEFECTIVE RESPONSE mailed 19 September 2006 is hereby VACATED. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 23 April 2007 is also hereby VACATED.

**CONCLUSION**

For the reasons set forth above, the petition to withdraw the holding of abandonment is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF DEFECTIVE RESPONSE mailed 19 September 2006 is **VACATED**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 23 April 2007 is **VACATED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

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